



CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance & Litigation



Biweekly Report - Period Ending October 28, 1995

Unisys v. DOC

On October 13, 1995, the contracting officer issued a final decision on the price of spare parts purchased under Modifications 77, 111 and 122 (the subject matter of this appeal), whereby he reduced the price of the spares to \$22.6 million, representing a net reduction of \$4.9 million from the \$27.6 million price determined in March 1994. The final decision was, in part, based upon previously-withheld cost data from Concurrent Computer Corporation. The final decision also covered: (1) deletion of undelivered spare parts, and the unilateral determination of price therefor; (2) government consideration for additional spares supplied by WEC; and (3) the unilateral determination of price for parts delivered but not ordered. Finally, the final decision demanded repayment of \$3.5 million, to be offset against future payments unless a repayment plan is submitted by October 30. Interest will be waived if repayment is made within 90 days of the date of the decision. Terry Lee and Steve Carrara have the case.

Garza v. DOC—GSBCA 13332-COM

In this construction delay case, Garza filed an amended complaint in response to our motions for more specificity,

to dismiss one cause of action for lack of jurisdiction, and for summary judgment as to a part of its appeal. Garza dropped the cause of action, added some minor details, and asserted that it had erroneously stated a \$71,000 claim for extended overhead and direct costs as \$59,000 in extended overhead alone. CLD has responded to the Amended Complaint and both parties served their initial discovery. Garza's discovery indicates they have yet to come to grips with the causation issue, that is, that even if the Government had delayed some work, other Garza delays would have prevented timely completion of the contract. The Government offered Garza \$10,000 in settlement, but Garza still perceived its claim as worth at least \$87,000. Garza must respond to the Government's motion for partial summary judgment next week. Jeff Hughes has the matter.

NIST Building Program

NIST continued to make rapid progress towards award of its approximately \$52,000,000 Chemistry Building. Best and Final Offers will be due next Tuesday. NIST hopes to make award by November 9. Jeff Hughes is advising.

BPR - Acquisition Process

The BPR team is presently concentrating on mapping out modules of the "concept of operations," a precursor to the "To Be" model. Lisa Obayashi is drafting a letter to OFPP to clarify and request certain regulatory waivers necessary for our CONOPS.

Advanced Modular Space v. DOC

Protest dismissed. GAO rendered its decision in this protest in which protester alleged that the low bidder on a NOAA procurement was ineligible for award because it understated its costs and failed to comply with certain IFB requirements. Siding with the Government, GAO determined that there was no legal basis to object to the acceptance of the bid even if it was below-cost as the protester alleged. Cecilia Jones handled the GAO protest.

GOES

Mark Langstein and Roxie Jones helped the GOES acquisition office revise the proposed sole-source GOES clone legislation to authorize sole-source contracts with both the prime and the instrument subcontractor and to comply with the new FASA requirement to affirmatively state that the sole source authority is contrary to merit-based selection procedures.

Actions Completed/Received during Period

	From 10/15/95	To 10/28/95
	Received	Completed
BXA	1	1
NOAA	5	5
PTO	3	3
Total	9	9

Contract Law Division—Client Workload Period Ending 10/28/95

